



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,920	12/23/2003	Andrew Robert England Kerr	S1011/20170 (251A)	9022

3000 7590 10/29/2004  
CAESAR, RIVISE, BERNSTEIN,  
COHEN & POKOTILOW, LTD.  
11TH FLOOR, SEVEN PENN CENTER  
PHILADELPHIA, PA 19103-2212

EXAMINER
----------

MUROMOTO JR, ROBERT H

ART UNIT	PAPER NUMBER
----------	--------------

3765

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/743,920

Applicant(s)

KERR, ANDREW ROBERT  
ENGLAND

Examiner

Robert H Muromoto, Jr.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/980,678.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/4/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/980,678, filed on 10/31/01.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8, 10, 15-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luhtala '737 in view of McNamee.

Luhtala teaches a versatile safety vest device that can serve as a personal flotation device and a bulletproof safety device. The safety device comprises a jacket frame which is made up of an outer shell, inner shell and buoyant material in between. Additional options for the device include an inflatable chamber which is placed in between the outer and inner shell. This chamber can be filled automatically or manually with gas or air. Another additional option is the inclusion of an anti-ballistic vest which can be attached to the outer surface of the jacket frame by snaps or any other suitable connection device. The anti-ballistic vest is a separate vest with an outer shell and inner shell that has openings into which layers of bulletproof material such as SPECTRA SHIELD®, are inserted in an overlapping manner to provide full protection

Art Unit: 3765

for the wearer. Since the vest is made of fabric it would allow for the expansion as recited when the inflatable chambers are inflated.

Although '737 teaches essentially all of the limitations of the instant invention there is no specific teaching with regards to a pressure regulating device, a valve for controlling the pressure, an automatic immersion inflation system, and a pressure regulating device in each bag.

However, McNamee teaches a life saving aid comprising an elongate tube provided with an automatic inflation device arranged to release gas to inflate the tube when immersed in water or manually triggered. The life saving aid is further provided with an oral inflation tube incorporating a non-return valve which is manually releasable to allow gas to escape from the tube (pressure regulating means).

Therefore it would have been obvious to modify the safety device of Luhtala to include an automatic inflation system and valve for controlling the air in the inflatable chamber of the safety device to provide even more safety to the wearer, in cases such as emergency man overboard situations.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luhtala '737 in view of McNamee as applied to claims listed above, and further in view of Goerz '769.

Although the combined teachings teach the limitations of the claims above they do not teach the use of a metal mesh layer to provide anti-ballistic characteristics to the garment.

However, Goerz '769 teaches the use of a metal mesh material inner layer to "enhance" the "penetration resistance" capability of a garment.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use a metal mesh layer in a garment to enhance the anti-ballistic (penetration resistance) characteristics of a garment.

### ***Double Patenting***

Claims 1-10 and 15-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,681,399. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant case and the parent case are verbatim with respect to the claimed limitations of the parent case. Applicant has taken some limitations from the independent claims of the parent and made them dependent claims but as a whole the limitations claimed in the parent and in claims 1-10 and 15-24 are identical.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the teachings of the parent application to produce the same invention.

Claims 11-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,681,399.

US patent 6,681,399 states that a possible material for the anti-ballistic layer could be a metal mesh material.

Art Unit: 3765

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the teachings of the parent case US patent 6,681,399 to produce the same invention of US patent 6,681,399 using a metal mesh material to enhance the anti-ballistic penetration resistance of a garment.

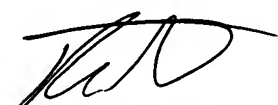
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References teaching protective vests have been cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H Muromoto, Jr. whose telephone number is 703-306-5503. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bobby Muromoto  
10/27/2004

Patent Examiner